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7 Attorney for Plaintiff  
8 MANUEL ENRIQUE TOMASINO

9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA  
11 SACRAMENTO DIVISION

12 MANUEL ENRIQUE TOMASINO,

13 Plaintiff,

14 v.

15 MARTIN J. O'MALLEY,  
16 Commissioner of Social Security,

17 Defendant.

Case No. 2:24-cv-00939-SCR

STIPULATION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES AND  
EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT;  
[PROPOSED] ORDER

18 IT IS HEREBY STIPULATED by and between the parties through their  
19 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
20 attorney fees and expenses in the amount of \$7,400.00, under the Equal Access to  
21 Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs of \$405.00 under 28 U.S.C. § 1920.  
22 This amount represents compensation for all legal services rendered on behalf of  
23 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C.  
24 §§ 2412(d), 1920.  
25

26 After the Court issues an order for EAJA fees to Plaintiff, the government will  
27 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to  
28 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability

1 to honor the assignment will depend on whether the fees are subject to any offset  
2 allowed under the United States Department of the Treasury's Offset Program. After  
3 the order for EAJA fees is entered, the government will determine whether they are  
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
6 determines that Plaintiff does not owe a federal debt, then the government shall cause  
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,  
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

9 This stipulation constitutes a compromise settlement of Plaintiff's request for  
10 EAJA attorney fees and does not constitute an admission of liability on the part of  
11 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
12 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
13 Francesco Benavides, including the Law Offices of Francesco Benavides, may have  
14 relating to EAJA attorney fees in connection with this action.

15 This award is without prejudice to the rights of Francesco Benavides to seek  
16 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings  
17 clause provisions of the EAJA.

18  
19 Respectfully submitted,

20  
21 Dated: July 30, 2024

Law Offices of Francesco Benavides

22  
23 By: /s/ Francesco Benavides  
24 FRANCESCO P. BENAVIDES  
25 Attorney for Plaintiff  
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27  
28

1 Dated: July 30, 2024

PHILLIP A. TALBERT  
United States Attorney  
MATHEW W. PILE  
Associate General Counsel  
Social Security Administration

5 By: Edmund Darcher\*  
EDMUND DARCHER  
Special Assistant U.S. Attorney  
Attorneys for Defendant  
(\*Permission to use electronic signature  
obtained via email on July 30, 2024).

12 **~~PROPOSED~~ ORDER**

13 Based upon the parties' Stipulation for the Award and Payment of Equal Access  
14 to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the  
15 amount of \$7,400.00 as authorized by 28 U.S.C. § 2412, and costs of \$405.00 under 28  
16 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.  
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21 DATE: August 9, 2024

22   
23 SEAN C. RIORDAN  
24 UNITED STATES MAGISTRATE JUDGE  
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26  
27  
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